

REMARKS

The Non-Final Office Action mailed June 23, 2010, considered and rejected claims 1-14. Claims 1-6 and 9-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Arquie et al., U.S. Patent No. 7,219,300 (filed Sep. 24, 2003) (hereinafter Arquie) in view of Pugaczewski U.S. Patent No. 6,903,755 (filed Dec. 21, 1999) (hereinafter Pugaczewski). Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Arquie in view of Pugaczewski and further in view of Richardson, U.S. Patent No. 7,146,568 (filed Aug. 6, 2001) (hereinafter Richardson).¹

By this response, claims 1 and 6 are amended. Claims 1-14 remain pending. Claims 1, 13, and 14 are independent claims which remain at issue. Support for the amendments may be found, *inter alia*, within Specification ¶¶ 0023-0030.²

Independent claims 1, 13, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Arquie and in view of Pugaczewski.³ Independent claim 1 (the limitations of which are incorporated into independent claims 13 and 14) has now been amended and the Applicants submit that the cited references fail to teach or suggest all the limitations of the claims as now presented.

In particular, the cited references fail to teach or suggest obtaining site attribute information corresponding to the two or more sites, the site attribute information being maintained and imported from one or more distributed application servers.

The Office had asserted that Arquie col. 6 ll. 25-30 teaches "the site attribute information being maintained and imported from one or more distributed application servers"⁴ The Applicants respectfully disagree. Arquie col. 6 ll. 25-30 recites:

"To practice the invention, the computer and network devices may be any devices useful for providing the described functions, including well-known data

¹ Office Communication p. 2 et seq. (paper no. 20100618, June 23, 2010). Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Please note that the paragraph numbers are taken from the published application, U.S. Pat. Pub. No. 2005/0204290 (Sep. 15, 2005). It should also be noted that the claims as recited take support from the entire Specification. As such, no particular part of the Specification should be considered separately from the entirety of the Specification.

³ Office Comm. p. 2 et seq.

⁴ Office Comm. p. 3.

processing and communication devices and systems, such as application, database, and web servers, mainframes, personal computers and computing devices (and, in some cases, even mobile computing and electronic devices) with processing, memory, and input/output components, and server devices configured to maintain and then transmit digital data over a communications network. The data storage networks 160, 162, 164 may be any network in which storage is made available to networked computing devices such as client systems and servers and typically may be a SAN, a NAS system, and the like and includes connection infrastructure that is usually standards-based, such as based on the Fibre Channel standard, and includes optical fiber (such as 1 to 2 gigabit/second capacity fiber) for transmit and receive channels, switches, routers, hubs, bridges, and the like.”⁵

It is clear that the cited portion of Arquie, quoted above (restoring the complete sentences), fails to teach or suggest that *site attribute information is maintained and imported* from one or more *distributed application servers*. The mere recitation of “server devices configured to maintain and then transmit digital data over a communications network”⁶ certainly fails to teach or suggest a distributed application server or that site attribute information is maintained and imported from the server.

The cited references also fail to teach or suggest the site information maintained and imported from one or more distributed application servers comprising site interconnection information identifying how each of the sites is connected to one or more other sites. The cited references also fail to teach or suggest the site information maintained and imported from one or more distributed application servers comprising a schema defining a template as to how the topological information should be rendered, the schema corresponding to a network template requirement and a specific user requirement. The cited references also fail to teach or suggest the site information maintained and imported from one or more distributed application servers comprising perceived status of each site.

The cited references also fail to teach or suggest processing the site attribute information to obtain site application topological and management information, wherein processing the site

⁵ Arquie col. 6 ll. 19–37.

⁶ Arquie col. 6 ll. 19–37.

attribute information comprises: identifying through an iterative process all sites within the network, generating at least one connection object for each site, and identifying a directional flow for communications between each site.

The cited references also fail to teach or suggest generating a graphical user interface, the user interface comprising a first display portion and a second display portion, the first display portion for displaying topological and management information, the second display portion for generating user controls including a generation control and an update control, and wherein information is displayed in the first display portion in accordance with the user controls in the second display portion.

The cited references also fail to teach or suggest displaying the generated information within the first display portion of the graphical user interface, the generated information including a site interconnection health rating, and directional flow indicators for each site interconnection.

The cited references also fail to teach or suggest determining whether the site application topological and management information should be updated. The cited references also fail to teach or suggest upon determining the site application topological and management information should be updated, updating the information.

Because of at least the distinctions noted, inter alia, the Applicants submit that a rejection of claims 1, 13, and 14 under 35 U.S.C. § 103(a) as being unpatentable in view of Arquie and in view of Pugaczewski would be improper and should be withdrawn. Accordingly, the Applicants respectfully request favorable reconsideration of the claims as now presented (as well as the respective dependent claims).

In view of the foregoing, Applicant respectfully submits that other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice.

For instance, as to claim 6, the Office asserted that Pugaczewski col. 22 ll. 48–55 discloses obtaining site attribute information corresponding to the two or more sites includes obtaining cost information for the connection information, wherein the cost information

corresponds an estimated cost for transmitting data between two connected sites.⁷ However, Pugaczewski col. 22 ll. 48–55 recites:

“The account manager provides information such as a profile of the current set-up of an account, current services billed for, and month-to-date billing data. The performance manager provides information about how the connection is operating, giving the customer the ability to do self-help and diagnose problems. Through the performance manager, a customer is able to tell if problems are at the customer end or the host end.”

The Applicants respectfully submit that “services billed for, and month-to-date billing data” fails to teach or suggest the specific limitations of obtaining cost information for the connection information and the cost information correspond[ing] to an estimated cost for transmitting data between two connected sites.

Accordingly, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

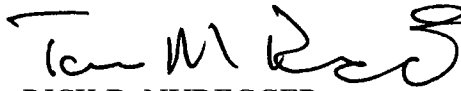
The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; and/or (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

⁷ Office Comm. p. 6–7

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 23rd day of September, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick D. Nydegger". The signature is stylized with a large, looping "R" and "N".

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